IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1005 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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KOKILABEN WD/O G M BARIA & 3 - Appellant(s)
Versus
BHAILALBHAI M PATEL & 1 - Defendant(s)

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Appearance :
MR AJ PATEL for Appellant(s) : 1 - 4.
NOTICE NOT RECD BACK for Defendant(s) : 1,
MR RR MARSHALL for Defendant(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 13/07/2006

ORAL JUDGMENT

1. By way of this appeal, the appellants have challenged the judgement and award dated 19.02.85 passed by the Civil Judge(Senior Division) and Commissioner of Workmen Compensation at Godhra in Workmen Compensation Case No. 63 of 1984 for an additional amount of Rs.6900/- over and above the compensation of Rs. 23100/- awarded with interest at the rate of 9% from the date of application till its realisation.

2. The appellants who are the wife, heir and dependents of the deceased had filed application for recovery of Rs. 30000/- with interest and penalty upto 50% from the respondents in respect of the accident which occurred on 28.10.83 early in the morning when the deceased was

driving truck bearing no. GTR 2025 the truck suddenly turtled as a result of which the deceased received serious injuries and ultimately died on the spot.

3. Learned counsel for the appellants has contended that the lower court without application of mind has awarded a compensation which is not in accordance with law.

4. Heard learned counsel for the parties and have gone through the documents on record. As a result of perusal of records, I am of the opinion that the lower court has awarded a lumpsum amount of Rs. 23,100/- without any calculation. Even if the monthly pay of the deceased was taken as Rs. 400/- and his age as 30, in view of section 4(1)a of the Act, the factor to be taken was 207.98. The lower court however granted a lumpsum amount without any clarification and the same is required to be corrected. If the aforesaid factor is taken, the total amount comes to Rs. 41596(207.98 x 200). However, the claim of the claimants is limited to Rs. 30,000/- and the Tribunal has already awarded Rs.23,100/-, the claimants shall now be entitled to Rs. 6,900/-.

5. In the premises aforesaid, the appeal is allowed.

The appellants shall be entitled to an additional amount of Rs. 6900/- with 9% interest. The order of the lower court is modified accordingly. No order as to costs.

(K.S. JHAVERI, J.)

Divya//